

# HOUSE BILL REPORT

## HB 2122

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**As Reported by House Committee On:**  
Health Care & Wellness

**Title:** An act relating to wellness programs for certain health care professionals.

**Brief Description:** Concerning wellness programs for certain health care professionals.

**Sponsors:** Representatives Thai, Harris, Simmons, Reed and Wylie.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 1/17/24, 1/24/24 [DP].

**Brief Summary of Bill**

- Exempts, under certain circumstances, physician wellness programs from the requirement of reporting a physician's or physician assistant's potential unprofessional conduct or inability to practice with reasonable skill and safety.
- Protects physician wellness program records from disclosure.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 13 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Bronoske, Davis, Harris, Macri, Maycumber, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

**Minority Report:** Without recommendation. Signed by 4 members: Representatives Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Caldier and Graham.

**Staff:** Jim Morishima (786-7191).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

A holder of a health professional license is required to report to the appropriate disciplining authority conduct by another licensee that may constitute unprofessional conduct. The license holder is also required to report to the disciplining authority (or a voluntary substance use disorder monitoring program such as the Physicians Health Program) when another license holder is potentially unable to practice with reasonable skill and safety to consumers as a result of a mental or physical condition. Under rules adopted by the Department of Health, other persons and entities must make similar reports, including health care institutions, insurers, and employers.

Certain entities are exempt from the reporting requirement, including certain voluntary substance abuse monitoring programs, such as the Physicians Health Program, while the license holder is actively participating in the program. The exemption does not apply if the license holder's conduct constitutes a clear and present danger to the public health, safety, or welfare. Program records relating to the programs are generally confidential.

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**Summary of Bill:**

Physician wellness programs are exempt from the requirement of reporting potential unprofessional conduct or inability to practice with reasonable skill and safety. This exemption does not apply if the program determines the participant is not competent to continue to practice or is a danger to themselves or to the health and welfare of the participant's patients or the public.

All physician wellness program records are confidential and exempt from public disclosure. The records are not subject to discovery by subpoena or admissible as evidence. Program records include case notes, progress notes, and correspondence.

A physician wellness program is defined as a program to address issues related to career fatigue and wellness in physicians, osteopathic physicians, and physician assistants established (or contracted for) by an employer of physicians and physician assistants, a nonprofit professional medical organization representing a specialty of physicians, or a statewide organization representing physicians and physician assistants. The program may not allow as a participant a person employed by, or with a financial interest in, the program. A physician wellness program does not include the monitoring of physicians who may be unable to practice medicine with reasonable skill and safety by reason of a health condition.

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**Appropriation:** None.**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Providers are first responders and have gone through a lot over the last three years. Rising workloads and stress have led to provider shortages across the board. Some physicians are facing the possibility of retaliation and violence for the services they provide. Physicians are resilient, but deal with a lot of challenging situations, both professionally and personally. Physicians who are facing these burdens often feel alone, which takes a toll on their health and can cause feelings of shame. Physicians have the highest suicide rate of any profession and only a fraction seek help. The state has taken steps to get new people into the profession but needs to do more to retain the existing workforce—the pipeline needs to work in tandem with retention. Physicians need to regain their balance and get the support they need to help the people they serve. They should be able to do this in a safe space.

Wellness programs mitigate career fatigue, promote wellbeing, and job satisfaction, and include peer-to-peer support. Many of these programs already exist. They are evidence-based and similar to the state's Employee Assistance Program. Some physicians do not feel comfortable participating in these programs because of a lack of confidentiality, which is a core component of these programs. They need to be a safe space, free from retribution. They can teach physicians coping skills through compassionate listening. These programs are not the same as the Physicians Health Program. This bill will make physicians more likely to use wellness programs.

(Opposed) None.

(Other) The medical profession can be stressful, and the concept of this bill is good. The confidentiality provisions in this bill are broad and sweep in almost everything. Confidentiality needs to be in the bill but should not be the primary focus. The confidentiality provisions in this bill should be modeled after existing peer review protections.

**Persons Testifying:** (In support) Representative My-Linh Thai, prime sponsor; Katina Rue and Alex Wehinger, Washington State Medical Association; Tamara Chang; and Anne-Marie E. Amies Oelschlager and Jennifer Chin, American College of Obstetricians and Gynecologists.

(Other) Larry Shannon, Washington State Association for Justice.

**Persons Signed In To Testify But Not Testifying:** None.